0 1 2 3 4 5 6 United States District Court 8 Central District of California 9 10 BONDED APPAREL, INC., 11 Case No. 2:15-cv-04406-ODW (JEM) 12 Plaintiff, ORDER DENYING PLAINTIFF'S v. 13 MOTION TO DISMISS 14 **COUNTERCLAIMS AS MOOT [55]** R2D APPAREL, INC.; RABIN ARREHBORI; MRR2, INC.; REYMOND 15 ARREHBORI; ROSS STORES, INC. 16 d/b/a ROSS DRESS FOR LESS; 17 BURLINGTON STORES, INC. d/b/a BURLINGTON COAT FACTORY: THE 18 TJX COMPANIES, INC. d/b/a T.J. 19 MAXX d/b/a MARSHALLS; DOES 1 through 110, inclusive; M.R.R. FABRIC, 20 INC., 21 22 Defendants. On October 19, 2015, Plaintiff Bonded Apparel, Inc. moved to dismiss 23 Defendants MRR Fabric, Inc.'s counterclaims. (ECF No. 55.) On November 9, 2015, 24 25 Defendant filed a timely First Amended Counterclaim. Fed. R. Civ. P. 15(a)(1); see also Fed. R. Civ. P. 15(a) advisory committee's notes ("Rule 15 [i]s the sole rule 26 27 governing amendment of a pleading to add a counterclaim."). Because a motion to

dismiss is moot once the pleading it attacks is superseded, Bauer Bros. LLC v. Nike,

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Inc., No. 09CV500-WQH-BGS, 2010 WL 4569893, at *2 (S.D. Cal. Nov. 5, 2010), Plaintiff's Motion to Dismiss is **DENIED** as moot, and without prejudice to refiling in response to Defendant's First Amended Counterclaims. (ECF No. 55.) IT IS SO ORDERED. November 10, 2015 OTIS D. WRIGHT, II UNITED STATES DISTRICT JUDGE